IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA**

**WRIT PETITION NO : 1237 of 1998**

Between:

Mr.Sharad B.Pitti, S/o. Sri.Badrivishal Pitti, aged about 40 years, occ: Business, R/o. 6-3-648, Somajiguda, Hyderabad.

**..... PETITIONER**

AND

1 State of A.P., Represented by its Secretary, Roads and Buildings, Secretariat Buildings, Hyderabad.
2 Chief Engineer, Roads and Buildings, Andhra Pradesh Erramanzil, Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a director or order or orders more particularly in the nature of Writ of Mandamus declaring the action of the respondents in a laying road on petitioners land admeasuring 7 acres 3 guntas equivalent to approximately 37342 sy.yards at Tarband, Thokakkta Village, Secunderabad cantonment, Secunderabad Bunglow No. 181 Bowenpally, Secunderabad as illegal, arbitrary and violative of principles of natural justice and article 14 and 300-A of the Constitution of India.

**For the Petitioner: MR.V.HARI HARAN,Advocate**

**For the Respondent Nos. 1 and 2: GP FOR TRANSPORT**

The Court made the following :

ORAL ORDER

This writ petition is filed by the petitioner seeking a writ of Mandamus declaring the action of the respondents in laying road on the petitioner's land admeasuring Ac. 7.03 guntas, equivalent to approximately 37342 sq. yards, at Tarbund, Thokakkta village, Secunderabad as illegal, arbitrary and violative.

The grievance of the petitioner is that he inherited the petition schedule property vide settlement deed dated 18.10.1968 executed in his favour by his grand-father and he was in possession of the said property without any hindrance. While so, the respondents, without any authority or issuing any notices or initiating any proceedings for acquiring the said land under the relevant provisions of law for road widening, have started road widening work on 17.1.1998. At that juncture, the petitioner approached this Court and filed the present writ petition and this Court while issuing rule nisi directed the respondents not to lay the road in the land belonging to the petitioner in the land abutting bungalow No.181, admeasuring Ac. 7.03 gts. situated at Tarband, Tokatta village, Secunderabad Cantonment, pending further orders.

Heard the learned counsel for the petitioner.

No counter-affidavit is filed.

From the above, it appears that the petitioner is the owner of the petition schedule lands, and even if the Government proposes to lay a road, it can do so only after initiating necessary proceedings under the relevant provisions of law. Hence, I have no hesitation to hold that the said action of the respondents in trying to form a road in the petition schedule property is without any authority.

Accordingly, this writ petition is allowed. However, if the respondents so choose to acquire the said land for the purpose of laying road, it can do so only after following the due process of law. No costs.

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7th December, 2004

vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Seventh day of December, two thousand and four.

ASST. REGISTRAR

To

1. The Secretary, Roads & Buildings, Govt. of A.P. Secretariat buildings, Hyderabad,
2. The Chief Engineer, Roads & Buildings, Erramanzil, Andhra Pradesh, Hyderabad,
3. 2 C.Cs to Govt. Pleader for Roads & Buildings, High Court buildings, Hyderabad (O.U.T.)
4. 2 C.D. copies.